

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA

MISSOULA

DIVISION

(You must fill in this blank. See Instruction H)

RECEIVED

FEB 26 2018

Clerk, U.S. District Court
District of Montana
MISSOULA

Benjamin C. Brooks

07483-046

(Write the full name of the plaintiff who is filing this
complaint and prisoner number, if any.)

Plaintiff,

-against-

Missoula County Detention Facility mail staff
Correctional Officer Harris # N-A
SGT Tera Tackett # 549

(Write the full name(s) of each defendant who is
being sued. If the names of all the defendants cannot
fit in the space above, please write "see attached" in
the space and attach an additional page with the full
list of names. The names listed in the above caption
must be identical to those contained in Section IV.
Do not include addresses here and do not use et al.)

Defendants.

Case No. _____

(to be filled in by the Clerk's Office)

COMPLAINT

(Pro Se Prisoner)

Jury Trial Demanded: ☐ Yes ☒ No

(check one)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed *in forma pauperis*.

Prisoner Complaint Form
Plaintiff's Last Name

Brooks / Brooks

(Revised May 2017)
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INSTRUCTIONS

1. Use this form to file a civil complaint with the United States District Court for the District of Montana. Include only counts/causes of action and facts – not legal arguments or citations. You may attach additional pages where necessary. Your complaint must be typed or legibly handwritten in ink and on white paper. Write on only one side of the paper. Do not use highlighters and do not staple or otherwise bind your papers. All pleadings and other papers submitted for filing must be on 8 ½" x 11" paper (letter size). You must sign the complaint (see page 8). Your signature need not be notarized but it must be an original and not a copy. The Clerk's Office cannot provide you copies of documents in your file without prepayment of \$0.10 per page (for documents electronically available) or \$0.50 (for documents not electronically available). Please keep a copy of the documents you send to the Court.
2. The filing fee for a complaint is \$350.00 plus a \$50.00 administrative fee for a total of \$400.00. This amount is set by Congress and cannot be changed by the Court. If you pay the filing fee, you will be responsible for serving the complaint on each defendant and any costs associated with such service.
3. If you are unable to prepay the entire filing fee and service costs for this action, you may file a motion to proceed in forma pauperis. If you are a prisoner and your motion to proceed in forma pauperis is granted, the Court will assess an initial partial filing fee equal to 20% of the average monthly deposits to your prison account for the six months immediately preceding the filing of the action, or 20% of the average monthly balance in your prison account for the same six-month period, whichever is greater. Thereafter, the balance of the \$350.00 filing fee will be collected in installments equal to 20% of your preceding month's income any time the amount in your account exceeds \$10.00. The \$50.00 administrative fee does not apply to persons granted *in forma pauperis* status. You will be required to continue making these payments even if your complaint is dismissed.
4. Complaints submitted by persons proceeding in forma pauperis and complaints submitted by prisoners suing a governmental entity or employee must be reviewed by the Court before the defendants are required to answer. See 28 U.S.C. §§ 1915(e)(2), 1915A(a); 42 U.S.C. § 1997e(c). The Court will dismiss your complaint before it is served on the defendants if: (1) your allegation of poverty is untrue; (2) the action is frivolous or malicious; (3) your complaint does not state a claim upon which relief may be granted; or (4) you sue a defendant for money damages and that defendant is immune from liability for money damages. After the Court completes the review process, you will receive an Order explaining the findings and any further action you may or must take. The review process may take a few months; each case receives the judge's individual attention.

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Plaintiffs should not serve defendants, pursue discovery, or request entry of default judgment prior to the completion of this review process.

5. Prisoners who have had three or more cases dismissed as frivolous, malicious, or failing to state a claim upon which relief may be granted (strikes) will not be permitted to file any further civil actions without prepaying the filing fee unless they are in imminent danger of serious harm. See 28 U.S.C. § 1915(g).
6. Prisoners may not maintain more than two civil actions in forma pauperis at one time, unless the prisoner shows that he or she is under imminent danger of serious physical injury.
7. The case caption (page 1 of this form) must indicate the proper Division for filing. The proper Division is where the alleged wrong(s) occurred. When you have completed your complaint, mail the *original* of your complaint and either the full filing fee or your motion to proceed in forma pauperis to the proper Division:

Billings Division: *Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Garfield, Golden Valley, McCone, Musselshell, Park, Petroleum, Powder River, Prairie, Richland, Rosebud, Stillwater, Sweetgrass, Treasure, Wheatland, Wibaux, and Yellowstone Counties*

U.S. District Court Clerk, 601 2nd Avenue North, Suite 1200, Billings, MT 59101

Butte Division: *Beaverhead, Deer Lodge, Gallatin, Madison, and Silver Bow Counties*
U.S. District Court Clerk, 400 N. Main, Butte, MT 59701

Great Falls Division: *Blaine, Cascade, Chouteau, Daniels, Fergus, Glacier, Hill, Judith Basin, Liberty, Phillips, Pondera, Roosevelt, Sheridan, Teton, Toole, and Valley Counties (Crossroads Correctional Center is located in Toole County and all claims arising at CCC should be filed in Great Falls)*

U.S. District Court Clerk, 125 Central Ave. West, Great Falls, MT 59404

Helena Division: *Broadwater, Jefferson, Lewis & Clark, Meagher, and Powell Counties (Montana State Prison is located in Powell County and all claims arising at MSP should be filed in Helena)*

U.S. District Court Clerk, 901 Front St., Ste 2100, Helena, MT 59626

Missoula Division: *Flathead, Granite, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties*

U.S. District Court Clerk, P.O. Box 8537, Missoula, MT 59807

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Plaintiff's Last Name

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I. Parties to this Complaint

A. Plaintiff

Name: Benjamin C. Brooks

All other names by which you have been known:

Ben - Benji

ID Number: 07483-046

Current Institution: Shelby's corecivic crossroads correctional

Address: 50 crossroads Dr.

Shelby, Mt 59424

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☒ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (*explain*) _____

B. Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1:

Name: MR. Harris

Job or Title: correctional officer

Employer: Missoula county Detention Facility

Address: 2340 mullen Rd

missoula, mt 59808

- ☒ Individual capacity ☒ Official capacity

Defendant No. 2:

Name: Tera Tackett # 549
Job or Title: Seargent / unit 3 unit manager
Employer: missoula county Detention Facility
Address: 2340 mullan rd
missoula, mt 59808

☒ Individual capacity

☒ Official capacity

Defendant No. 3:

Name: missoula county Detention Facility mail staff
Job or Title: State government Agency Facility mail Handlers
Employer: missoula county Detention Facility
Address: 2340 mullan rd
missoula, mt 59808

☐ Individual capacity

☒ Official capacity

Defendant No. 4:

Name: _____
Job or Title: _____
Employer: _____
Address: _____

☐ Individual capacity

☐ Official capacity

(NOTE: If more space is needed to furnish the above information, continue on a blank sheet labeled "APPENDIX A: PARTIES").

II. Basis for Jurisdiction

Indicate below the federal legal basis for your claim, if known. This form is designed primarily for pro se prisoners challenging the constitutionality of their conditions of confinement, claims which are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ 42 U.S.C. § 1983 (state, county, or municipal defendants)

☐ Action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)

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III. Statement of Claim(s)

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph.

A. Count I:

1. What federal constitutional or statutory right(s) do you claim is/are being violated by defendants? *It's my constitutional right to ~~aid~~ and assist my attorney in my defence for my criminal case. Tera Tackett violated my rights to receive law work by mail sent from home and to use the law library. Their negligence must warrant damages*
2. What date and approximate time did the events giving rise to your claim(s) occur? *on or about 8-11-2017 my legal mail ~~was~~ and documents were withheld from being delivered to me by Tera Tackett.*
3. Supporting Facts: (Include all facts you consider important, including names of persons involved, places, and dates. Describe what happened without citing legal arguments, cases, or statutes). *08-11-17, Sgt Tera Tackett ~~withheld~~ willfully withheld my mail that contained law material that I needed so I could aid and assist my attorney in my case I'm accused of. Tera Tackett stated "Inmates can't have mail sent in that" printed from a computer." However, that's not a rule on the rule sheet. Correctional officer MR. Harris opened my legal mail outside of my presence but in the presence of another inmate housed in missoula county detention facility and allowed that inmate to read my, privileged & confidential legal mail before it was brought to me*
4. Defendants Involved: (List the name of each defendant involved in this claim and specifically describe what each defendant did or did not do to allegedly cause your injury). *Tera Tackett abused her power by enforcing a rule toward me that's not in the M.C.D.F policy nor rules which caused mental stress, emotional stress, wasted money, wasted gas, delaying me from defending myself and harmed my defense M.C.D.F and their employees are guilty of negligence. Correctional officer MR. Harris put my life in danger by allowing another inmate to read my privileged & confidential legal mail. I didn't feel safe to go back to general population and feared other inmates may be plotting on me because they know about the legal material contained within the mail in question. That person or persons may also be informing the government of my defense strategy.*

(NOTE: For each additional claim, use a blank sheet labeled "APPENDIX B. STATEMENT OF CLAIMS." You must address paragraphs III(A)(1-4) for each count., following the directions under paragraph III.

APPENDIX B: Statement of claim

A. Count (1)

(1) Correctional officer MR. Harris violated my Attorney / Client rights by revealing privileged information to another inmate. This is a Negligence issue at a minimum.

(2) On or around November 9, 2017 after mail call late at night is when C.O MR Harris gave me my legal mail already opened then informed me that he opened my legal mail in front of another inmate in another unit.

(3) Correctional officer Harris gave my legal mail to another inmate after officer MR. Harris opened it in front of him. Then correctional officer Harris allowed ~~the~~ Michael Brooks to read my legal mail. This occurred on ~~at~~ 11-9-17 and it was recorded by the M.C.D.F cameras. I have a copy of all grievances and appeals filed to exhaust PLRA remedies, as well as memo's from Sgt. Tara Tackett that admitted she held my legal mail and a memo that came from Sgt. Maden admitting that my legal mail was given to a inmate by the name of Michael Brooks

(4) Correctional officer Harris at the missoula county detention facility and Inmate Michael Brooks. C.O MR. Harris gave Michael Brooks my privileged legal documents at mail pass and Michael Brooks read privileged information about my pending legal case. C.O. MR Harris negligence in this matter is actionable and both correctional officers and missoula County Detention Facility must be held accountable

Brooks / Brooks

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive. (Do not cite legal arguments, cases, or statutes). Attach additional pages if needed. *Mental Health and mental stress; Fear and Anxiety of injury (Physical and legal) from inmates and Government; privileged legal information and defense strategy compromised; and could be the cause of my High blood pressure. Tera Tackett harmed me by preventing me from having access at law material in a timely manner by withholding my mail that contained my law material which injured my defense in my suppression case.*

(NOTE: If more space is needed to furnish the above information, continue on a blank sheet labeled "APPENDIX C: INJURY").

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims. *Negligence - \$1,000,000 U.S. Dollars from M.C.O.F - official capacity
Negligence - \$1,000,000 U.S. Dollars from Sgt. Tera Tackett - official / individual
Negligence - \$1,000,000 U.S. Dollars from C.O. Harris in his - official / individual
Emotional Distress - punitive \$1,000,000 U.S. Dollars
Mental stress - punitive \$1,000,000 U.S. Dollars
Federal mail violation - Tera Tackett, individual capacity - \$1,000,000 U.S. Dollars
Federal mail violation - correctional officer Mr. Harris Individual capacity - \$1,000,000
Violation of 6th and 14th Amendment - \$1,000,000 U.S. Dollars from Tera Tackett and Mr. Harris*

(NOTE: If more space is needed to furnish the above information, continue on a blank sheet labeled "APPENDIX D: REQUEST FOR RELIEF").

VI. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?



Yes



No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s). *Missoula County Detention Facility*

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes ☐ No ☐ Do not know

C. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes ☐ No

D. If you did file a grievance answer the following questions:

1. Where did you file the grievance?

Missoula County Detention Facility

2. What did you claim in your grievance? Tera Tackett withheld mail that was not "undeliverable". The unit Sergeant was citing a facility rule that does not exist. My legal mail was being giving to another inmate I have my grievances.

3. What was the result, if any? All Denied

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.) I have appealed to the facility administrator and was also Denied

E. If you did not file a grievance, answer the following questions:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

F. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. I have written letters to unit manager

Tera Tackett on issues and unit manager Morden on opening of my legal mail issue. unit manager Tera Tackett admitted to holding my mail because she say it was undeliverable.

(NOTE: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VII. Plaintiff's Declaration

- A. Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.
- B. I understand I must keep the Court informed of my current mailing address and my failure to do so may result in dismissal of this Complaint without notice to me.
- C. I understand the Federal Rules of Civil Procedure prohibit litigants filing civil complaints from using certain information in documents submitted to the Court. In order to comply with these rules, I understand that:

- social security numbers, taxpayer identification numbers, and financial account numbers must include only the last four digits (e.g., xxx-xx-5271, xx-xxx5271, xxxxxxxx3567);
- birth dates must include the year of birth only (e.g., xx/xx/2001); and
- names of persons under the age of 18 must include initials only (e.g. L.K.).

If my documents (including exhibits) contain any of the above listed information, I understand it is my responsibility to black that information out before sending those documents to the Court.

I understand I am responsible for protecting the privacy of this information.

- D. I understand the submission of a false statement or answer to any question in this complaint may subject me to penalties for perjury. I declare under penalty of perjury that I am the Plaintiff in this action, I have read this complaint, and the information I set forth herein is true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.
- E. This Complaint was deposited in the prison system for legal mail, postage prepaid or paid by the prison, on

Executed at Corr Civic CCC Shelby on February, 19, 2017.
(Location) (Date)

Signature of Plaintiff: Benjamin C. Brooks
 Printed Name of Plaintiff: Benjamin C. Brooks
 Prison Identification #: 07483-046
 Prison Address: 50 crossroads Dr.
Shelby MT 59474
 City State Zip Code

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